

TITLE 3. DEPARTMENT OF PESTICIDE REGULATION
Continuing Education Records and Course Approval
DPR Regulation No. 11-003

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend Title 3, California Code of Regulations (3 CCR) sections 6512 and 6513. The proposed regulatory action would require instructors or sponsoring organizations (providers) of continuing education (CE) courses to submit the records to DPR electronically within 14 days of course completion by the licensee or certificate holder (licensee), require providers and licensees to maintain the date of course completion in their records, and include a criteria for denying approval of a CE course submitted by a provider.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on July 12, 2011. Comments regarding this proposed action may also be transmitted via e-mail <dpr11003@cdpr.ca.gov> or by facsimile transmission at (916) 324-1452.

A public hearing has been scheduled for the time and place stated below to receive oral comments regarding the proposed regulatory changes.¹

DATE: July 11, 2011
TIME: 1:30 p.m.
PLACE: California Environmental Protection Agency Headquarters Building
Sierra Hearing Room
1001 I Street
Sacramento, California 95814

A DPR representative will preside at the hearing. Persons who wish to speak will be asked to register before the hearing. The registration of speakers will be conducted at the location of the hearing from 1:00 to 1:30 p.m. Generally, registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded the opportunity to do so after the registered persons have been heard. If the number of registered persons in attendance warrants, the hearing officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard. Oral comments presented at a hearing carry no more weight than written comments.

¹ If you have special accommodation or language needs, please notify DPR. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action affects small businesses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

DPR protects human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's strict oversight begins with product evaluation and registration, and continues through statewide licensing of commercial and private applicators, pest control businesses, and consultants; environmental monitoring; and residue testing of fresh produce.

DPR is committed to increasing efficiency and streamlining processes to better serve the public. Significant increases in efficiency rest on improving several of the online services that are currently available to the public, as well as introducing others. For example, DPR's basis for proposing CE reporting by providers is to establish a process to accept online renewals for licensees. Some of our other plans include developing internet options so that the public can apply for new licenses, schedule examinations, and possibly take examinations online. This is particularly important for the online renewal which includes verifying that our pesticide applicators have taken sufficient CE classes. CE is an important validation of qualifications, and the one alternative that we can offer to our licensees as a substitute to taking a competency examination every two years.

DPR's Licensing and Certification Program administers examinations for two-year certificates or licenses to all applicants who meet DPR requirements. Pest control aircraft pilots, qualified pesticide applicators, and agricultural pest control advisers are all required to obtain CE hours in order to renew their licenses and certificates. The purpose of CE is to ensure that licensees keep their knowledge current in the area of pest control laws and regulations; provide proper, safe, and efficient pesticide use; protect public health, environment, and property; and encourage safe working conditions for agricultural and pest control workers. Licenses and certificates cannot be renewed unless the minimum CE hours relating to laws, regulations, pesticides, and pest management are completed within each two-year period. Failure to complete the required CE hours results in loss of the license or certificate, making re-examination necessary for reinstatement. Since CE recertification is done in lieu of re-examination, accurate CE records are vital in ensuring that pest management professionals are competent and safety conscious.

3 CCR section 6512 outlines the process for a provider to apply for DPR approval of a CE course. Proposed subsection (g) would specify that the Director may withhold course approval if courses are materially or substantially misrepresented in literature or advertisement, or if records are not kept or submitted as specified in 3 CCR section 6513. The proposed amendment is meant to deter fraudulent advertising of specific credit hours as being approved by DPR when they are not. This proposed amendment would not penalize licensees for taking a course that was falsely advertised without their knowledge, but it may affect approval of future CE applications submitted by a provider.

Currently, 3 CCR section 6513 requires the provider of CE courses to maintain records for three years from the licensee's course completion date. Additionally, each licensee is required to maintain their own records for three years of all approved CE hours acquired. Both providers and licensees are required to submit CE course records to DPR upon request. Licensees receive this request at time of their renewal.

DPR proposes to amend 3 CCR section 6513 to require each record to include the date of course completion. This date is important because a licensee must have completed the CE within the time frame that the license is active in order to renew without re-examining. The date of course completion, along with the course name, will become the primary verification that the course was taken during the appropriate two-year license period.

DPR proposes to require the provider to electronically submit specific information to DPR within 14 days of course completion for each licensee. The provider may use a third party entity to comply with the reporting requirements. Provider's CE records are to be submitted to DPR over the Internet using the Department's online Web site or via an electronic data file transfer process. This proposed amendment will ensure a more efficient and timely renewal for licensees as well as be a much more improved and streamlined process by utilizing Internet technology.

IMPACT ON LOCAL AGENCIES AND SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. DPR assumes that local agency providers maintain CE records in some type of electronic format. Therefore, the proposed amendment to require providers to submit the records electronically would not create additional data entry work for these agencies.

COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no increased costs to any state agency will result from the proposed regulatory action. As mentioned above, DPR assumes that state agency providers maintain CE records in some type of electronic format. Therefore, the proposed amendment to require providers to submit the records electronically would not create additional data entry work for these agencies.

EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no costs or savings in federal funding to the state will result from the proposed action.

EFFECT ON HOUSING COSTS

DPR has determined that the proposed action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR has made an initial determination that the adoption of this regulation would have no significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DPR has made an initial determination that the adoption of this regulation will not have a significant cost impact on private persons or businesses. The CE provider's record keeping procedures may require minimal modification in order to submit the records electronically to DPR but will not result in significant change to the existing level of record keeping. The initial adjustment to the process should be minor with guidance from DPR, and no ongoing costs are anticipated.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS

DPR has determined it is unlikely that the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternatives considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the regulatory action.

AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11502.5 and 11456.

REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 11502.5, 11791, 11792, and 12991.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR has prepared an Initial Statement of Reasons and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulations permanent if they remain substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulations, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulation action; requests for a copy of the Initial Statement of Reasons, and the proposed text of the regulation, and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015
(916) 445-3991

Questions on the substance of the proposed regulatory action, particularly technical or historical questions concerning this proposal, may be directed to:

Natalya Eagan, Environmental Scientist
Pest Management and Licensing Branch
(916) 324-4245

The Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>. Upon request, the proposed text can be made available in an alternate form as a disability-related accommodation.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and may be accessed at <<http://www.cdpr.ca.gov>>.

DEPARTMENT OF PESTICIDE REGULATION

Director

Date